

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Approval of an Agreement Concerning Certain Generation Assets Known As "Contra Costa 8" Pursuant to a Settlement and Release of Claims Agreement Approved by the Commission on January 14, 2005, for Authority to Recommence Construction, and for Adoption of Cost Recovery and Ratemaking Mechanisms Related to the Acquisition, Completion and Operation of the Assets.

Application 05-06-029
(Filed June 17, 2005)

**ADMINISTRATIVE LAW JUDGE'S RULING
ON THE UTILITY REFORM NETWORK NOTICE OF
INTENT TO CLAIM COMPENSATION**

On September 12, 2005, The Utility Reform Network (TURN) filed a Notice of Intent to Claim Intervenor Compensation (NOI) in this proceeding. No responses have been received.

TURN has a long history of being recognized and awarded compensation as a customer in many Commission proceedings. No facts are presented here, or otherwise known, that would lead to a different conclusion in this proceeding. This Ruling, after consultation with the Assigned Commissioner, is the "preliminary ruling addressing whether the customer [TURN] will be eligible for an award of compensation." (Pub. Util. Code § 1804(b)(1).)¹ TURN is found eligible.

¹ All code references are to the Public Utilities Code unless otherwise noted.

1. Timely Filing

A prehearing conference (PHC) was held on August 11, 2005. The NOI was filed on September 12, 2005. The NOI was filed within 30 days of the PHC. (§ 1804(a)(1).) The filing is timely.

2. Customer

The Public Utilities Code defines customer in three ways, which the Commission has in turn categorized as:

Category 1: a participant representing consumers.

Category 2: a representative authorized by a customer.

Category 3: a representative of a group or organization that is authorized by its articles or bylaws to represent the interests of residential customers.

(Section 1802(b); Decision (D.) 98-04-059, 79 CPUC2d 628.)

In support of its NOI, TURN states the following. TURN is a nonprofit consumer advocacy organization. TURN has a long history of representing the interests of residential and small commercial customers of California's utility companies before the Commission. TURN's articles of incorporation specifically authorize it to represent the interests of residential customers. Copies of the relevant portion of TURN's articles of incorporation are attached to an NOI submitted in Application (A.) 98-02-017 and again in A.99-12-024. The articles of incorporation have not changed since the earlier submissions. TURN has approximately 30,000 dues-paying members, of whom TURN believes the great majority are residential ratepayers. Because TURN does not poll its members in a manner that would allow a precise breakdown between residential and small business members, the exact percentage is not available. TURN's members include many customers of applicant PG&E.

TURN is a Category 3 customer.

3. Adequacy of Representation

TURN asserts that it is the only intervenor that will act specifically on behalf of residential and small commercial customers. The Commission's Division of Ratepayer Advocates (DRA) is a party, but DRA does not represent the specific interests of small customers.

The Commission has found that participation in Commission proceedings by parties representing the full range of affected interests is important. Such participation assists the Commission in ensuring that the record is fully developed and that each customer group receives adequate representation. (See, for example, Ruling issued July 7, 1999, page 3, in A.98-09-003, et al.) Based on its long history of successful participation before the Commission, it is reasonable to conclude that TURN has knowledge and experience that may support and complement the work of DRA or others. TURN also plans to coordinate, as much as possible, with DRA and other intervenors in order to avoid unnecessary duplication of effort.

4. Significant Financial Hardship

A finding of significant financial hardship creates a rebuttable presumption of eligibility for compensation in other Commission proceedings commencing within one year of the date of that finding. (§ 1804(b)(1).) TURN obtained a finding of significant financial hardship in a ruling issued by Administrative Law Judge (ALJ) Wetzell in Rulemaking (R.) 04-04-003, dated July 27, 2004. This proceeding commenced on June 17, 2005, within one year of the date of that finding, so the rebuttable presumption applies in this case.

5. Nature and Extent of Planned Participation

The NOI must include a statement of the nature and extent of the customer's planned participation as far as it is possible to set out when the NOI is filed. (§ 1804(a)(2)(A)(i).) TURN states that depending on the nature of the

proceeding, TURN may present testimony, participate in hearings and submit briefs. TURN's specific concerns relate to the cost of the CC8 project, performance requirements governing PG&E's ownership and cost responsibility for bundled customers.

6. Itemized Estimate of Costs of Participation

The NOI must include an itemized estimate of the compensation that the customer expects to request, given the likely duration of the proceeding as it appears at the time the NOI is filed. (§ 1804(a)(2)(A)(ii).) TURN states that it expects to request compensation in the amount of \$75,950:

Matthew Freedman	100 hrs. of professional time @\$320/hr.	\$32,000
Michael Florio	50 hrs. of professional time @\$495/hr.	24,750
Robert Finkelstein	20 hrs. of professional time @435/hr.	8,700
	50 hrs. of consultant time @\$210/hr.	10,500
Total		\$75,950

TURN states that it will provide time records, expense records and justification for hourly rates in a request for an award of compensation. TURN further states that the actual amount of any future request for compensation will depend upon the amount of resources TURN ends up devoting to the proceeding, as well as the Commission's ultimate decision in this case. The reasonableness of the 2005 hourly rates requested for TURN's representatives has been addressed in TURN's hourly rate filing in R.04-10-010, and TURN expects the rates represented above to be established in a decision in that proceeding.

TURN satisfied the requirement that it include an itemized estimate of the compensation that the customer expects to request, given the likely duration of the proceeding as it appears at the time the NOI is filed.

IT IS RULED that:

1. The Utility Reform Network (TURN) timely filed a Notice of Intent to Claim Intervenor Compensation.
2. TURN is a customer for the purposes of intervenor compensation (Category 3).
3. TURN reasonably stated the adequacy of its representation.
4. TURN established by un rebutted presumption that its participation without an award of intervenor compensation would pose a significant financial hardship.
5. TURN reasonably stated the nature and extent of its planned participation, as far as it is possible to know as of the filing of the Notice of Intent.
6. TURN presents a satisfactory itemization of an estimate of compensation it expects to request. The reasonableness of the hourly rates shall be addressed in the later request for compensation, if any, by TURN.
7. TURN is eligible for an award of intervenor compensation. The exact amount of the award, if any, shall be determined based on the reasonableness of TURN's request for award, and this ruling "in no way ensures compensation." (§ 1804(b)(2).) The Commission may audit the records and books of TURN to the extent necessary to verify the basis of the award. (§ 1804(d).)

Dated March 9, 2006, at San Francisco, California.

/s/ CAROL B. BROWN

Carol B. Brown
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling on The Utility Reform Network Notice of Intent to Claim Compensation on all parties of record in this proceeding or their attorneys of record.

Dated March 9, 2006, at San Francisco, California.

/s/ ERLINDA PULMANO
Erlinda Pulmano

N O T I C E

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